

REMARKS

Claims 13-16 currently appear in this application. The Office Action of August 22, 2002, has been carefully studied. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicants respectfully request favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

Rejections under 35 U.S.C. 101

Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is said to be directed to non-statutory subject matter.

This rejection is respectfully traversed. Claim 13 has been rewritten in accordance with the Examiner's helpful suggestion. It is believed that claim 13 now conforms to the requirements of 35 U.S.C. 101.

Rejections under 35 U.S.C. 112

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as ebbing indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

This rejection is respectfully traversed. Claim 13 has now been amended solely to recite an isolated nucleic acid comprising a sequence. It is believed that claim 13 now conforms to all of the requirements of 35 U.S.C. 112.

Election/Restriction

The previously set forth restriction requirement has been withdrawn in part. Product claims drawn to isolated nucleic acids that are fragments of SEQ ID NO:3 are rejoined to SEQ ID NO:3.

Accordingly, claim 14 has been submitted, drawn to SEQ ID NO:7, SEQ ID NO:8, or SEQ ID NO:9. Claims 15 and 16 have been submitted because they are directed to methods of detecting *Pectinatus cerevisiphilus* using the sequences claims in claims 13 or 14.

Allowable Subject Matter

The Examiner has proposed two claims that would be allowable. Accordingly, claim 13 has been amended to recite the allowable subject matter, namely, "An isolated nucleic acid comprising SEQ ID NO:3."

In view of the above, it is respectfully submitted that the claims are now in condition for allowance, and favorable action thereon is earnestly solicited.

Respectfully submitted,
BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By


Anne M. Kornbau

Registration No. 25,884

Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
AMK:nmp

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In re Appl. No. 09/762,633
Confirmation No. 9666

"Version with markings to show changes"

13. (Amended) ~~A gene sequence of a spacer~~
~~region between a gene coding 16S rRNA and a gene coding 23S~~
~~rRNA of Pectinatus cerevisiiphilus containing the base~~
~~sequence represented by~~An isolated nucleic acid comprising SEQ
ID NO:3.